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Promotion and protection of human rights: human rights questions, including alternative approaches for the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and Uruguay: revised draft resolution

Human rights in the administration of justice

The General Assembly,

Bearing in mind the principles embodied in articles 3, 5, 8, 9 and 10 of the Universal Declaration of Human Rights¹ and the relevant provisions of the International Covenant on Civil and Political Rights and the Optional Protocols thereto,² in particular articles 6 and 10 of the Covenant, and all other relevant international treaties,

Recalling all the resolutions of the General Assembly, the Human Rights Council, the Commission on Human Rights and the Economic and Social Council that are relevant to the subject of human rights in the administration of justice, including General Assembly resolutions 60/159 of 16 December 2005 and 62/158 of 18 December 2007, Human Rights Council resolution 10/2 of 25 March 2009 and Economic and Social Council resolution 2009/26 of 30 July 2009,

Calling attention to the numerous international standards in the field of the administration of justice,

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex, and resolution 44/128, annex.

Welcoming the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),³

Welcoming also the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, adopted at the Twelfth United Nations Congress on Crime Prevention and Criminal Justice,⁴

Acknowledging the efforts made by the Secretary-General to improve the coordination of United Nations activities in the field of administration of justice, the rule of law and juvenile justice,

Noting with appreciation the important work of the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund and relevant contributions of special procedure mandate holders of the Human Rights Council on the administration of justice,

Noting with satisfaction the work of the Interagency Panel on Juvenile Justice and of its members, in particular their coordination in providing technical advice and assistance in juvenile justice, and the active participation of civil society in their respective work,

Convinced that the independence and impartiality of the judiciary and the integrity of the judicial system as well as an independent legal profession are essential prerequisites for the protection of human rights, the rule of law, good governance and democracy, as well as for ensuring that there is no discrimination in the administration of justice, and should therefore be respected in all circumstances,

Recalling that every State should provide an effective framework of remedies to redress human rights grievances or violations,

Emphasizing that the right to access to justice for all forms an important basis for strengthening the rule of law through the administration of justice,

Aware of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

Reaffirming that the best interests of the child shall be a primary consideration in all decisions concerning the child in the administration of justice, including in relation to pretrial measures, and shall be an important consideration in all matters concerning the child related to sentencing of his or her parents, legal guardian or other sole or primary caregiver,

1. *Takes note with appreciation of the most recent report submitted by the Secretary-General to the Human Rights Council on human rights in the administration of justice, including juvenile justice, emphasizing, inter alia, that the administration of justice extends beyond the criminal justice system to other means of administering justice;⁵*

³ See Economic and Social Council resolution 2010/16.

⁴ A/CONF.213/18, chap. I, resolution 1.

⁵ A/HRC/14/34.

2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. *Reiterates its call* to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards;

4. *Invites* States to make use of technical assistance offered by the relevant United Nations programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice;

5. *Appeals* to Governments to include in their national development plans the administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal aid services with a view to promoting and protecting human rights, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;

6. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular through reform of the judiciary, the police and the penal system, as well as juvenile justice reform, in order to establish and maintain stable societies and the rule of law in post-conflict situations, and in this context welcomes the role of the Office of the United Nations High Commissioner for Human Rights in supporting the establishment and functioning of transitional justice mechanisms in post-conflict situations;

7. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

8. *Takes note with appreciation* of the decision⁶ to establish an open-ended intergovernmental expert group to exchange information on best practices, as well as on national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on Crime Prevention and Criminal Justice on possible next steps, and invites, in this regard, the expert group to benefit from the expertise of the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights and other relevant stakeholders;

9. *Encourages* States to endeavour to reduce, where appropriate, pretrial detention, inter alia by adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives, as well as by taking measures aimed at the implementation of existing legislation and by ensuring effective access to justice and legal advice and assistance;

10. *Also encourages* States to pay due attention to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)³ when developing and implementing relevant legislation, procedures, policies and action plans, and invites relevant special

⁶ See A/C.3/65/L.6.

procedure mandate holders, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and all other relevant organizations to take these rules into consideration in their activities;

11. *Stresses* the importance of paying greater attention to the impact of imprisonment of parents on their children, while noting with interest the day of general discussion on the theme "The situation of children of prisoners" to be organized in 2011 by the Committee on the Rights of the Child;

12. *Calls upon* States to identify and promote good practices in relation to the needs and physical, emotional, social and psychological development of babies and children affected by parental detention and imprisonment, and emphasizes that, when sentencing or deciding on pretrial measures for a pregnant woman or a child's sole or primary caregiver, appropriate priority should be given to non-custodial measures, bearing in mind the gravity of the offence and after taking into account the best interests of the child;

13. *Recognizes* that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law as well as relevant international standards on human rights in the administration of justice, and calls on States parties to the Convention on the Rights of the Child⁷ to abide strictly by its principles and provisions;

14. *Encourages* States that have not yet integrated children's issues into their overall rule of law efforts to do so, and to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and to comply with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

15. *Stresses* the importance of including rehabilitation and reintegration strategies for former child offenders in juvenile justice policies, in particular through education programmes, with a view to their assuming a constructive role in society;

16. *Urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons under 18 years of age;

17. *Also encourages* States to collect relevant information concerning children within their criminal justice systems so as to improve their administration of justice, mindful of the children's right to privacy, with full respect for relevant international human rights instruments, and bearing in mind applicable international standards on human rights in the administration of justice;

18. *Further encourages* States to establish independent mechanisms to contribute to monitoring and safeguarding the rights of children, including children within their criminal justice systems, and to address children's complaints;

⁷ United Nations, *Treaty Series*, vol. 1577, No. 27531.

19. *Invites* Governments to provide for tailored and interdisciplinary training, including anti-racist, multicultural and gender-sensitive training, in human rights in the administration of justice, including juvenile justice, to all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences;

20. *Encourages* the regional commissions, the specialized agencies, United Nations institutes active in the areas of human rights and crime prevention and criminal justice, and other relevant parts of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field, and other segments of civil society, including the media, to continue to develop their activities in promoting human rights in the administration of justice;

21. *Invites* States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations agencies and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

22. *Invites* the Human Rights Council and the Commission on Crime Prevention and Criminal Justice, as well as the Office of the United Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime, to closely coordinate their activities relating to the administration of justice;

23. *Invites* the Office of the United Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime to reinforce, within their respective mandates, their activities relating to national capacity-building in the field of the administration of justice, in particular in post-conflict situations and, in this context, in cooperation with relevant departments of the Secretariat, including the Peacebuilding Support Office, the Department of Political Affairs and the Department of Peacekeeping Operations;

24. *Underlines* the importance of rebuilding and strengthening structures for the administration of justice and of respecting the rule of law and human rights, including in post-conflict situations, as a crucial contribution to building peace and justice and ending impunity, and, in this respect, requests the Secretary-General to ensure system-wide coordination and coherence of programmes and activities of the relevant parts of the United Nations system, including through the Rule of Law Coordination and Resource Group, and in cooperation with the Peacebuilding Commission, including assistance provided through United Nations field presences;

25. *Invites* relevant special procedure mandate holders of the Human Rights Council to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

26. *Requests* the Secretary-General to submit to the General Assembly at its sixty-seventh session a report on the latest developments, challenges and good practices in human rights in the administration of justice, as well as the activities undertaken by the United Nations system as a whole;

27. *Decides* to continue its consideration of the question of human rights in the administration of justice at its sixty-seventh session under the item entitled "Promotion and protection of human rights".
